

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 19**

MOR FURNITURE FOR LESS, INC.

Employer

and

Case 19-RC-14814

TEAMSTERS UNION LOCAL 174, affiliated
with INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board. Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned. Upon the entire record¹ in this proceeding, the undersigned makes the following findings and conclusions.²

I. SUMMARY

The Employer is engaged in the business of furniture sales and delivery, with a facility located in Kent, Washington. At issue in this case is whether the petitioned-for-unit of approximately 39 drivers and driver assistants³ employed at the Kent facility, is an appropriate unit. Employer argues that the unit sought by Petitioner is inappropriate because the drivers and driver assistants share an overwhelming community of interest with the warehouse employees, furniture technicians, and customer service personnel. Employer therefore contends that the smallest appropriate unit is comprised of its drivers, driver assistants, warehouse employees, furniture technicians, and customer service employees.

Based on the record evidence and the parties' contentions and arguments, I find that the unit sought by Petitioner is not an appropriate unit. Rather, in agreement with the Employer, I

¹ Employer and Petitioner filed timely briefs, which were duly considered.

² The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed. Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein. The labor organization involved claims to represent certain employees of the Employer. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.

³ The parties referred to the drivers and driver assistants throughout the hearing as installers and installer assistants, respectively.

find that the unit must also include the warehouse employees, furniture technicians, and customer service representatives.

Below, I have provided a section setting forth the evidence, as revealed by the record in this case, relating to Employer's operations and the community of interest factors for the drivers and driver assistants unit (Unit) proposed by the Petitioner, as well as those factors for the other classifications that the Employer contends belong in the Unit. Following the "Evidence" section is my analysis of the applicable legal standards in this case, my conclusion, and a section directing an election in the unit found appropriate.

II. EVIDENCE

A. Employer's Operations

Employer, a State of California corporation with a corporate headquarters in San Diego, California, engages in the retail sales and delivery of furniture at various facilities located throughout the West. Those locations are Kent and Spokane, Washington; Portland, Oregon; Boise, Idaho; Reno, Nevada; Albuquerque, New Mexico; Phoenix, Arizona; and Bakersfield, Fresno, and San Diego, California. The only location at issue in this case is the Kent facility.

Each of Employer's facilities are separated into sales and operations divisions, including Employer's Kent facility, which has its own general sales manager and an operations manager overseeing the employees in those respective divisions. Jason Sevedge is the Kent operations manager who oversees the warehouse and delivery functions of the operations division. The employees at issue in this case all work in the Kent operation division.

The Kent facility has a furniture showroom where furniture is displayed. Sales employees, who are not at issue here, deal with customers up to the point of the sale and work in the showroom. Surrounding the furniture showroom in the form of a "J" is the Employer's warehouse. The warehouse is open to the public between 10 a.m. and 6 p.m., 7 days per week. Employer's operations employees' work in and out of the warehouse and deal with the storage, repair, and delivery of furniture, and customer service.

At the time of the hearing, the Employer employed approximately 39 drivers and driver assistants; 28 warehouse employees; 13 customer service representatives; and 5 furniture technicians in its operations division. In addition, Employer employed in its operations division a payroll clerk, a rebuyer, and 2 inventory controllers, a repair supervisor, 2 warehouse supervisors,⁴ 2 warehouse managers, and 2 service managers.⁵ Here, Petitioner proposes a unit composed solely of the 39 drivers and driver assistants.

B. Community of Interest Factors

A warehouse or service manager opens the warehouse at 5:30 each morning. One crew of warehouse employees starts its shift at 6 a.m., while another shift starts at noon. Drivers and driver assistants report at 7 a.m. They are scheduled to work 4, 10-hour days per week, but often work additional hours and occasionally additional days. Warehouse employees, furniture technicians ("furniture techs"), and customer service representatives ("CSRs") are all

⁴ Two service supervisors positions also exist, but they were unfilled as of the hearing date.

⁵ The parties agreed that whatever unit is found appropriate should exclude the payroll clerk, rebuyer, and inventory controllers because they do not share a community of interest with the other operations employees. Therefore, those classifications are excluded from the Unit.

scheduled to work 5, 8-hour days. Furniture techs generally report at 8 a.m., while the CSRs start at 9 a.m.

All of these employees wear the same uniform, punch a time clock, and are paid by the hour. Drivers earn between \$14 and \$16.25 per hour, while driver assistants earn between \$12 and \$14.50 per hour. The pay range for warehouse employees is between \$9 and \$14 per hour, while for the CSRs the range is between \$9.50 and \$10 per hour. Employer pays the techs between \$13 and \$16.25 per hour. All employees receive the same benefits of a health care plan, 401k pension plan, employee discount plan, life insurance, holidays, sick leave, and vacation.

All employees are also subject to the same Employer policies set forth in the employee handbook. They must also pass a drug test and pass a criminal background check in order to be hired. Other job requirements differ somewhat for the drivers/driver assistants and the other employees. As drivers, driver assistants, and warehouse employees must lift furniture, Employer requires that they take physical exams to insure that they can lift up to 100 lbs. Additionally, drivers and driver assistants must pass a Department of Transportation physical exam, and a HPE⁶ physical. On the other hand, warehouse employees are given only the HPE physical exam and the CSRs do not have to take any physical exam in order to work for Employer.⁷ Only drivers and driver assistants must pass a driving test, but they do not have to possess a commercial driver's license (CDL) in order to work for the Employer.

Drivers and driver assistants are primarily responsible for delivering furniture to customers. They drive Employer's six 26-foot trucks primarily. If delivery volume is particularly heavy, Employer will send out up to a maximum of 12 trucks at one time. In that case, Employer will rent additional trucks. Deliveries occur seven days per week.

After arriving in the morning, only drivers and driver assistants attend a meeting conducted by the service or operations manager. After the meeting and after getting their paperwork, drivers and driver assistants begin loading their trucks with the furniture that has been placed in their truck docking area by the warehouse employees. The drivers or the assistants notify the service manager if any item is missing and a warehouse employee pulls the missing piece and delivers it to the driver for loading. During this morning period, the drivers and assistants also perform minor maintenance tasks on the truck and insure that the vehicle is safe and has sufficient fuel in order to perform the deliveries. Drivers and driver assistants generally leave the warehouse to deliver between 9 and 10 a.m., though departure times vary depending on the size of the load.

Drivers drive the loaded furniture to customers' homes while the driver assistants read the map and assist with directions. Occasionally, a driver assistant will drive and the driver will take the passenger seat if fatigued or in order to provide on-the-job training the assistant. Once they have arrived at the customer's home, the driver will contact the Employer's dispatcher to announce their arrival⁸. After determining where the customer wants the furniture placed, the driver and driver assistant carry and place the furniture in the residence. They carry a drill and vinyl pen with them if a minor repair is required, such as a slight scratch. Once delivered to that residence, the driver again contacts the dispatcher to report that the product was delivered to

⁶ The abbreviation "HPE" is not defined in the record, but it refers to a type of physical administered by a company known as U.S. Health Works.

⁷ The record is silent whether the furniture techs must pass any physical exam.

⁸ As noted below, customer services representatives perform the dispatching duties for the Employer.

the customer's satisfaction, or that the customer rejected the furniture and the reason why. Once the drivers and driver assistants complete all of the scheduled deliveries, they return to the warehouse. On average, drivers and driver assistants are gone from the warehouse delivering furniture for seven hours of their workday.

Upon their return to the warehouse, drivers give their paperwork and delivered furniture tags to the warehouse manager and, with the driver assistants, remove and dispose of any trash and cardboard that remains in the truck. They also unload any damaged or refused merchandise and place it on carts. They roll the damaged merchandise to the furniture techs for repair, and deliver the refused merchandise to another area of the warehouse for rewrapping. During the course of an average day, drivers and driver assistants are present in the warehouse for 2 to 3 hours when warehouse employees, furniture techs, and CSRs are also present.

Operations Manager Jason Sevedge testified that other operations employees sometimes perform some of the drivers' and driver assistants' duties. For example, warehouse employees have filled in as driver assistants in the truck when large loads require a third person for delivery, or when the regular driver is unavailable because of injury, sickness, or other reason. Sevedge testified that over the course of the past year, this has occurred an average of three to four times per week. He also stated that once or twice per month, techs will assist the drive team⁹ with their furniture deliveries if they fall behind their delivery schedule. On a much less frequent basis, CSRs have also helped deliver furniture when warehouse employees have been unavailable to fill in for driver assistants, according to Sevedge. Sevedge further testified that warehouse employees also help load and unload the trucks an average of 3 to 4 times per week, and have received training for these duties. On the other hand, John Shefcik, a driver whom Employer has employed for seven months, and Jeremy Jones, Shefcik's driver assistant whom Employer has employed for three months, disputed much of this testimony by Sevedge. Rather they both testified that only drivers or driver assistants have sat in the trucks to deliver furniture except for one occasion when a warehouse crew delivered furniture when Employer first opened the Kent facility. They also testified that they have not observed any warehouse employees assist drivers and driver assistants with the loading or unloading of their trucks.

Warehouse employees offload freight from manufacturers' trucks, pull merchandise and stage it for loading onto trucks for delivery, assist customers who come to the warehouse to pick up furniture, and assemble furniture. Employer has divided the warehouse employees into a prep and assembly team, a receiving team, and a pulling team. The prep and assembly team primarily assembles the chairs that are delivered and also assist with the repair of furniture. The receiving team offloads the freight brought in by manufacturers' trucks at the loading docks in the warehouse. The pulling team consists of those warehouse employees who pick and set up the furniture for loading onto the trucks for delivery. Drivers and driver assistants will occasionally help with the pulling of furniture for delivery and assist a customer with a load out of the warehouse. They also assemble chairs on a regular basis according to Sevedge, though driver Shefcik testified that he had not assembled a chair in the warehouse for four months. The techs also assemble furniture in the warehouse that is somewhat trickier to build, and help warehouse employees rewrap and restock furniture when the techs' workload is light.

Furniture techs primarily repair the furniture. In-shop furniture techs assess and repair product in the warehouse that is damaged at the Employer's facility or brought in by the drivers from a customer. The in-house techs repair the furniture at the customer's home or determine that a replacement or additional part is required. They drive Employer's three Ranger pickup

⁹ Drive team refers to a driver and driver assistant.

trucks to get to the customers' residences. If their pickup is in the shop for maintenance, the in-house tech sometimes drives one of the regular trucks driven by the drivers. Techs also occasionally deal with charge-backs to manufacturers whereby they will seek to obtain a credit for merchandise that is defective or otherwise not repairable. No other employees fill in for the techs when they are absent from work.

CSRs assist customers who pick up their furniture at will-call, answer phones and customers' questions, dispatch drivers, and assist drivers with directions. Customer service dispatchers are in frequent contact with drive teams over the phone throughout the delivery day. Dispatchers are the employees contacted by the drive teams if there are any problems with the delivery such as damaged furniture or a customer refusal of the delivery. In that case, the dispatcher communicates the information to have an in-house tech sent out or the proper paperwork generated for the return of the furniture. Dispatchers also help plan delivery routes for the drivers and the in-house furniture techs by using a software program designed for that process. They are also responsible for ordering parts based on their discussions with the furniture techs or paperwork generated by the techs. Warehouse employees also perform will-call duties when CSRs are busy, by pulling up the customer invoice and assisting the customer with pickup of the order.

During the year prior to the hearing, several employees transferred into or out of the driver/driver assistant classifications. In particular, two warehouse employees were promoted into driver positions and two drivers transferred into warehouse positions. These latter two transfers occurred because one driver committed a DUI offense, while the other driver had a scheduling conflict. An additional two drivers also transferred into furniture tech positions. Besides the two furniture techs who transferred from driver positions in the past year, another furniture tech is also a former driver.¹⁰ One of the CSRs is also a former driver, though the testimony established that the transfer occurred prior to Employer acquiring the Kent facility¹¹.

As noted above, the operations manager oversees all of the operations employees working in and out of the warehouse. He has hired and fired drivers/driver assistants, CSRs, furniture techs, and warehouse employees, and makes the final decision concerning leave requests. Two warehouse managers and two service managers report to the operations manager. Those four managers interview applicants and make hiring recommendations to the operations manager, and also have the authority to discipline, suspend, and assign work to employees.¹² Drivers, driver assistants, CSRs, and in-house techs report to the service managers. The service managers, with input from the operations managers, have also been responsible for conducting performance evaluations of those employee classifications as well. On the other hand warehouse employees and in-shop techs report to the warehouse managers, who also conduct their performance evaluations. Warehouse managers and service managers assume each other's duties when the others are out of the warehouse, and employees are directed to consult with the other managers when their regular managers are not present.

¹⁰ The record does not indicate when that former driver transferred into the furniture tech position.

¹¹ Although the record does not disclose when the transfers occurred, one of the current inventory controllers is a former warehouse employee who transferred into a CSR position before transferring into the inventory controller position. Employer's other inventory controller is a former driver. One of the CSRs is also a former service supervisor.

¹² The parties stipulated, and the evidence demonstrates, that the warehouse and service managers should be excluded from the Unit because they are supervisors pursuant to Section 2(11) of the Act. Accordingly they are excluded.

An organizational chart purporting to reflect the Kent facility's structure shows that Employer has positions titled warehouse supervisor, service supervisor, and repair supervisor.¹³ At the time of the hearing, Employer employed two warehouse supervisors and one repair supervisor, but did not have anyone filling the position of service supervisor.¹⁴ The warehouse supervisors and repair supervisor tend to perform their duties the fastest and lead other employees by example. They do not have any authority to hire, fire, discipline, lay off, transfer, reward, or assign work to employees, or make any effective recommendations concerning those actions. They do not formally train employees or attend management meetings. Unlike the operations, service, and warehouse managers, they are compensated on an hourly basis rather than salaried.¹⁵

There is no history of collective bargaining with respect to any of Employer's employees at the Kent facility.

III. LEGAL ANALYSIS

Section 9(b) of the Act confers on the Board the discretion to establish the unit appropriate for collective bargaining and to decide whether such unit shall be the employer unit, craft unit, plant unit, or subdivision thereof. There is nothing in the Act which requires that the unit for bargaining be the *only* appropriate unit, or the *ultimate* unit, or the *most* appropriate unit; the Act requires only that the unit be "appropriate," that is, appropriate to insure that employees in each case have "the fullest freedom in exercising the rights guaranteed by this Act." *Bartlett Collins Co.*, 334 NLRB 484 (2001); *Overnite Transportation Co.*, 322 NLRB 723 (1996). If the Board determines that the petitioned-for unit is not appropriate, the Board may examine the alternative units suggested by the parties, but it also has the discretion to select an appropriate unit that is different from the alternative proposals of the parties. *Boeing Co.*, 337 NLRB 152, 153 (2001); *Overnite Transportation Co.*, 331 NLRB 662, 663 (2001).

In arriving at an appropriate unit determination, the Board considers various community-of-interest factors, including the following: method of wages or compensation; hours of work; employment benefits; supervision; qualifications, training, and skills; job functions and amount of time spent away from the employment situs; contact with other employees; functional integration with other employees; and interchange with other employees. *Overnite Transportation Co.*, 322 NLRB 723 (1996). Contrary to the Petitioner, I find that the majority of the above factors support the conclusion that drivers and driver assistants have a strong community of interest with the other operations employees so as to preclude their separate representation.

The work of drivers and driver assistants is functionally integrated with that of the warehouse employees, furniture technicians, and CSRs. Thus, the drive team is dependent on the warehouse employees to have the appropriate merchandise selected and set out for loading. They also rely on the CSR dispatchers for routing, directions and communications with other employees in the warehouse when problems arise such as damaged or refused furniture.

¹³ Although Operations Manager Sevedge testified that the chart does not accurately reflect the Kent facility's structure, he acknowledged that the chart was included in a packet distributed to Employer's new hires approximately one week before the hearing.

¹⁴ One current CSR is a former service supervisor, however.

¹⁵ The Employer took the position at the hearing that the warehouse and repair supervisors are not supervisors under the Act, while Petitioner declined to take a position whether they were supervisors under the Act. The parties also failed to reach agreement whether these employees should be included in the unit found appropriate.

When such problems do arise, they turn to the furniture techs to repair the damaged furniture and the warehouse employees to rewrap and restock refused furniture. The CSRs also work hand-in-hand with the furniture techs by ordering parts for them and providing routing instructions for the in-house techs. Warehouse employees also assist CSRs to insure that merchandise is pulled for customers at will-call. In sum, these classifications work together to insure that once a sale is made, customers receive their purchased merchandise in a satisfactory manner.

Temporary and permanent interchange also support my conclusion that separate representation of drivers and driver assistants is not appropriate here. Operations manager Sevedge's testimony establishes that the warehouse employees frequently, and furniture techs and CSRs less frequently, fill in as driver assistants during delivery of furniture when drivers or driver assistants are unavailable to perform the delivery.¹⁶ Warehouse employees also perform other driver/driver assistant functions such as the loading and unloading of trucks, and drivers sometimes assist warehouse employees with the pulling of furniture. Permanent interchange is evident from the fact that in the past year, two drivers have transferred into warehouse positions and two other drivers have transferred into two furniture tech positions. In the same time frame, two warehouse employees have transferred into driver positions. Although drivers and driver assistants spend a majority of their time away from the warehouse, they are in constant contact with the CSR dispatchers while on the road. Moreover, they work alongside, and in close proximity to, the warehouse employees and in-shop furniture techs for the 2 to 3 hours they have in common in the warehouse.

Other factors support the same conclusion. Like the drivers and driver assistants, the CSRs, warehouse employees, and furniture techs are paid on an hourly basis, receive the same benefits, wear the same uniform, are subject to the same Employer policies, and have similar job qualifications such as passing a drug test and criminal background check. Although drivers and driver assistants must pass a DOT physical examination, they are not required to have a specialized CDL license. Drivers and driver assistants also earn wages that are comparable to those earned by the other warehouse classifications, particularly the furniture techs.

Further, drivers and driver assistants also share common supervision by the service managers with the CSRs and the in-house furniture techs. While the warehouse managers supervise the warehouse employees and in-shop furniture techs, drivers and driver assistant are subject to their supervision when the service managers are not present.

In light of the above factors, I conclude that the proposed unit of drivers and driver assistants is inappropriate pursuant to the Board's decision in *Levitz Furniture Co. of Santa Clara*, 192 NLRB 61 (1971). In that case, the Board found that the proposed unit of truck drivers and truck driver helpers was inappropriate. There, like here, the truck drivers and truck driver helpers shared common supervision with the other employees; received substantially the

¹⁶ I reject Petitioner's contention that I should not credit Sevedge's testimony allegedly because the record is silent concerning where and when Sevedge works, or how he otherwise knows anything about the duties of the various employees in the warehouse. The record establishes that since 1998, Sevedge has worked for Employer as a driver assistant, driver, service manager, warehouse manager, group manager, and operations manager of the Kent facility where he is in charge of the warehouse. Thus, his background and current position demonstrate that he has sufficient knowledge of the respective classifications at issue. To the extent that Petitioner wishes to argue that Sevedge is physically detached from the warehouse or otherwise unfamiliar with employees' daily routines there, the record contains no evidence to support such a conclusion.

same benefits; were paid on the same basis; and had duties that were functionally integrated with those of the other employees. The Board also noted that, like the present case, the truck drivers did not constitute a separate identifiable unit even though they spent a majority of their time away from the store because they had regular and frequent interchange with other employees, spent a substantial portion of their time working alongside or in close proximity with the other employees, and other employees also made truck deliveries. See also *Calco Plating*, 242 NLRB 1364, 1365 (1979) (truck drivers share a sufficient community of interest with production and maintenance employees to warrant their inclusion in requested production and maintenance unit where production and maintenance employees assist drivers in the loading and unloading of their trucks; make customer deliveries; share common supervision; have the same working conditions; receive comparable wages based on the same pay scale; and receive the same mode of compensation, pay raises, and fringe benefits).

I further find that some of the cases relied upon by Petitioner in its brief are distinguishable from the instant case. Petitioner's reliance on *Publix Super Markets*, 343 NLRB No. 109 (Dec. 16, 2004), is misplaced. In that case, the Board found that the requested truck driver unit was appropriate because the truck drivers were not so integrated with the production and maintenance employees so that they had lost their separate identity. The Board relied on the fact that, unlike the present case, the truck drivers were required to have a CDL; were paid based on a formula unlike the other employees; did not perform work within the facility; did not have contact with the majority of other employees; and did not have virtually any temporary interchange with other employees. *Mc-Mor-Han Trucking Co.*, 166 NLRB 700 (1967), which Petitioner also cites, is also inapposite. In that case, the Board found that there was not a sufficient community of interest between drivers and mechanics to render the requested driver unit inappropriate. The Board noted that in that case, the drivers did not perform the other employees' work; interchange had not occurred; and substantial differences existed with respect to compensation, hours, and conditions of employment. By contrast, the drivers here perform other employees' duties; frequent interchange has occurred; and the drivers have comparable compensation, hours, and conditions of employment as the other employees in the warehouse.

In sum, I find that the warehouse employees, CSRs, and furniture techs share such an overwhelming community of interest with the drivers and driver assistant to compel their inclusion in the proposed Unit. I further find that the two warehouse supervisors and repair supervisor should also be included in the Unit because they possess none of the supervisory indicia of a Section 2(11) supervisor, but perform the same duties as the warehouse employees and furniture techs, respectively.

IV. CONCLUSION

In view of the above, the record as a whole and the parties' briefs and arguments, I find that the following Unit of employees share a sufficient community of interest and, thus, constitute an appropriate unit for the purposes of collective bargaining. Accordingly, I shall direct an election in the following Unit of employees:

All regular full and part-time drivers (installers), driver (installer) assistants, warehouse employees, furniture technicians, and customer service representatives employed by the Employer at or out of its Kent, Washington location; excluding all other employees, managers, guards and supervisors as defined by the Act.¹⁷

¹⁷ I have directed an election in a unit larger than that sought by Petitioner, whose showing of interest in this larger unit is sufficient. However, Petitioner has not clearly stated whether it is willing to proceed to

There are approximately 88 employees in the Unit.

V. DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the Unit found appropriate at the time and place set forth in the notice of election to be issued subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the Unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by TEAMSTERS UNION LOCAL 174, affiliated with INTERNATIONAL BROTHERHOOD OF TEAMSTERS.

A. List of Voters

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the alphabetized full names and addresses of all the eligible voters, must be filed by Employer with the Regional Director for Region 19 within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. The Region shall, in turn, make the list available to all parties to the election.

In order to be timely filed, such list must be received in the Regional Office, 2948 Jackson Federal Building, 915 Second Avenue, Seattle, Washington 98174, on or before March 28, 2006. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the filing of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission to (206) 220-6305. Since the list will be made available to all parties to the election, please furnish a total of **four** copies, unless the list is submitted by facsimile, in which case no extra copies need be submitted.

B. Notice of Posting Obligations

an election in the larger unit. Accordingly, if Petitioner does not wish to proceed to an election in the larger unit and wishes to withdraw its petition without prejudice, its withdrawal must be received by Region 19 no later than the close of business, April 4, 2006.

According to Board Rules and Regulations, Section 103.20, Notices of Election must be posted in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of election. Failure to follow the posting requirement may result in additional litigation should proper objections to the election be filed. Section 103.20(c) of the Board's Rules and Regulations requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. *Club Demonstration Services*, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on nonposting of the election notice.

C. Right to Request Review

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street N.W., Washington, D.C. 20570. This request must be received by the Board in Washington by 5 p.m. on April 4, 2006. The request may **not** be filed by facsimile.

In the Regional Office's initial correspondence, the parties were advised that the National Labor Relations Board has expanded the list of permissible documents that may be electronically filed with its offices. If a party wishes to file the above-described document electronically, please refer to the Attachment supplied with the Regional Office's initial correspondence for guidance in doing so. The guidance can also be found under "E-Gov" on the National Labor Relations Board web site: www.nlr.gov.

DATED at Seattle, Washington, this 21st day of March 2006.

/s/ Richard L. Ahearn

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